



Registered Association Handbook

EC 20082 (03/07)



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1. Introduction

1.1 Purpose and scope of the handbook

This handbook is designed to help registered associations and their financial and electoral district agents comply with the provisions of the *Canada Elections Act*. It is essentially a tool to help the financial agent of an association to manage the association's financial reporting. The handbook does not take precedence over the legislation, and you should use it in conjunction with the Act.

This handbook has six main sections:

1. Introduction
2. Registration, roles and responsibilities within the registered association
3. Deregistration of associations
4. Financial administration
5. Reporting requirements
6. Compliance and enforcement

1.2 Questions about this handbook

You should direct any questions about this handbook to the Office of the Chief Electoral Officer, more commonly known as Elections Canada. You can reach us directly by telephone on the support line at 1-800-486-6563, or by e-mail through our Web site at www.elections.ca.


Associations may require more technical information than the general public does. Please identify yourself when you communicate with us, so that we can promptly put you in touch with the appropriate specialist.


Please bring all alleged violations of the *Canada Elections Act* to the attention of the Commissioner of Canada Elections, in writing, by mail to 257 Slater Street, Ottawa, Ontario K1A 0M6 or by fax at 613-990-4877. The Commissioner is responsible for compliance with and enforcement of the Act. He or she assesses each case in relation to the law.

1.3 Additional reference material

You should read this handbook in conjunction with the material in the kit that Elections Canada has provided to your registered association. The accompanying examples in the additional reference material illustrate how to deal with many situations that this handbook introduces.

1.4 Symbols used here

Any documents that you can download from the Elections Canada Web site at www.elections.ca are followed by a  symbol. For example:

The *Application for registration – electoral district association* (EC 20243) , which is referred to in **section 2.2** of this handbook, is available on the Elections Canada Web site.

2. Registration, roles and responsibilities within the registered association

2.1 Definition

A **registered association** is an electoral district association that is registered in the Registry of Electoral District Associations as an association of members of a political party in an electoral district.

[2(1) "electoral district associations", "registered association"]

Prohibited activities of registered associations during an election period

During an election period, no registered association can incur expenses for election advertising. Election advertising is defined as any transmission to the public, by any means during an election period, of an advertising message that promotes or opposes a registered party or the election of a candidate, including a message that takes a position on an issue with which a registered party or candidate is associated.

[319 "election advertising", 403.04]

Prohibited activities of unregistered associations

An unregistered electoral district association of a registered party may not:

[403.01]

- accept contributions
- issue official income tax receipts
- provide goods or services or transfer funds to a candidate endorsed by a registered party
- provide goods or services, or transfer funds, to a registered party or a registered association, or
- accept a candidate's surplus electoral funds, a leadership contestant's surplus leadership campaign funds or a nomination contestant's surplus nomination campaign funds

Exception for unregistered parties

Electoral district associations of unregistered parties can transfer money to an unregistered party because these parties are not subject to the restrictions on contributions set out in the Act. However, electoral district associations of an unregistered party are not permitted to transfer money to candidates of the unregistered party.

2.2 Registration

The electoral district association of a registered political party applies for registration by sending the *Application for Registration of an Electoral District Association* (EC 20243) to the Chief Electoral Officer.

Contents of the application

The application must include:
[403.02]

- the full name of the association and of the electoral district
- the full name of the registered party
- the mailing address of the association and the address of the place where the association keeps its books and records
- the names and addresses of the chief executive officer and other officers of the association
- the name and address of the association's auditor and the signed consent of the auditor to act in this capacity
- the name and address of the association's financial agent and the signed consent of the financial agent to act in this capacity
- a declaration signed by the leader of the party certifying that the electoral district association is an electoral district association of the party

Transmitting the application

Before transmitting the application to the Chief Electoral Officer, the association should verify that:

- the application clearly indicates the full name of the association, the electoral district and the party with which it is affiliated
- the financial agent and the auditor have signed the declarations accepting their appointments
- the application for registration has been signed and dated
- all information requested has been properly entered

Verification of the application by the Chief Electoral Officer

After receiving an application, the Chief Electoral Officer will determine whether the association has met the requirements for registration. Once the Chief Electoral Officer has done so, he or she will inform the party and the applicant association whether the association is registered in the Registry of Electoral District Associations, and if not, the reason why.

[403.02(3)]

2.3 Benefits of being a registered association

Several benefits flow from being a registered association:

- Once registered, the registered association can accept contributions and may issue income tax receipts for monetary contributions of more than \$20. However, no agent of a registered association of a registered party may issue a tax receipt unless the leader of the registered party has, in writing, notified the financial agent of the registered association that its agents are authorized to issue those receipts. Contributors can use the receipts to obtain a tax credit.
[404.4(1), *Income Tax Act*, subsection 127(3), (3.2)]
- The registered association may provide goods or services and transfer funds to a candidate endorsed by the registered party, another registered association of the same registered party or the registered party.
[404.2(2)(b), 404.2(2.1)]
- Candidates endorsed by a registered party, nomination contestants and leadership contestants may transfer their surplus funds to the registered association of that party in their electoral district. All other candidates must remit these funds to the Receiver General.
[435.46(2), 473, 478.41(2)(b)]
- The association remains registered in the Registry of Electoral District Associations as long as it continues to meet the requirements for maintaining that status. See section 2.7 for details about the obligations of a registered association.
[403.08]

The association will lose these benefits if it fails to maintain its registration as required by the Act.

2.4 Financial agent

On his or her appointment, the registered association must obtain the financial agent's signed consent to act in this capacity. The financial agent is the person who has the capacity to enter into legal contracts on behalf of the association, and he or she must be capable of managing the registered association's financial affairs. The financial agent is responsible for filing all of the registered association's financial reports with the Chief Electoral Officer. A corporation incorporated under the laws of Canada or a province is eligible to be the financial agent of a registered association.
[403.09, 403.1(1), 403.27, 403.28(4), 403.35]

An association may also have several electoral district agents, but it can have only one financial agent at any given time. If the financial agent dies, becomes incapacitated or resigns, or if the association revokes his or her appointment, the association must appoint a replacement as soon as possible. The association must report the change of financial agent in writing to the Chief Electoral Officer within 30 days. The chief executive officer of the association must certify the report outlining the change. [403.13, 403.14, 403.16]

Eligibility of financial agents

The registered association must appoint an eligible person or corporation as its financial agent. For a corporation to be eligible, it must have been incorporated under federal, provincial or territorial law and be able to enter into contracts in the area for which it is appointed.

[403.1(1), 403.1(2)(f)]

Ineligible persons

The following persons are not eligible to be a financial agent or an electoral district agent:

[403.1(2)]

- an election officer or a member of the staff of a returning officer
- a candidate
- an auditor appointed under the Act
- a person who is not an elector, unless the financial agent is a corporation
- an undischarged bankrupt
- a person who does not have the capacity to enter into contracts in the province or territory in which the person ordinarily resides


Appointment process

The appointment of the financial agent must:

[403.09(2), 403.12]

- be made in writing
- include the financial agent's name, mailing address and telephone number
- if it is a corporation, include the name of the person who has signing authority on behalf of the corporation
- indicate the effective date of the appointment
- be accompanied by the financial agent's signed consent to act in this capacity

Responsibilities of the financial agent

The financial agent of a registered association is responsible for administering its financial transactions and for reporting on them, in accordance with the Act. These duties entail filing various reports and financial documents with the Chief Electoral Officer. The *Financial Agent's Checklist* (EC 20084)  lists all the responsibilities of the financial agent.
[403.27]

2.5 Appointment of electoral district agents by registered associations

A registered association may appoint as many electoral district agents as it chooses. Within 30 days of their appointment, the association must provide the Chief Electoral Officer with a written report setting out the names and addresses of the persons appointed and any terms and conditions under which they are appointed. The report must be certified by the financial agent of the association. These agents are authorized by the association to accept contributions and to incur and pay expenses on its behalf.

Any change in the information relating to the association's electoral district agents must be reported by the association to the Chief Electoral Officer within 30 days of its occurrence. The report must be certified by the financial agent of the association.
[403.09, 403.16(1)]

Responsibilities of electoral district agents

No person or entity other than the electoral district agents of a registered association can incur and pay an association's expenses or accept contributions to it. Only the financial agent of the registered association can accept or transfer goods or funds on behalf of the association.
[403.28]

2.6 Auditor

The registered association must appoint either an eligible person, or a partnership of eligible persons, as its auditor. The auditor verifies the association's financial transactions return in accordance with the Act. On the auditor's appointment, the registered association must obtain the auditor's signed consent to act in this capacity.
[403.11(1), 403.12, 403.37]

Eligibility of the auditor

Only the following are eligible to be an auditor for a registered association:

[403.11(1)]


- a person who is a member in good standing of a corporation, an association or an institute of professional accountants (CA, CGA or CMA), or
- a partnership of which every partner is a member in good standing of a corporation, an association or an institute of professional accountants

Ineligible persons

The following persons are ineligible to be an auditor:

[403.11(2)]

- an election officer or members of the staff of the returning officer
- a candidate or the official agent of a candidate
- a chief agent or registered agent of a registered party or an eligible party
- electoral district agents and financial agents of registered associations
- leadership contestants and their leadership campaign agents
- nomination contestants and their financial agents
- financial agents of registered third parties

For further information on who may be an auditor for a registered association, please see Information Sheet 25: *Who May Be an Auditor Under the Canada Elections Act*. 

Change of auditor

If the auditor ceases to hold office for any reason or ceases to be qualified or eligible, or the appointment is revoked, the association must appoint another without delay. The association must report the change of auditor in writing to the Chief Electoral Officer within 30 days. The chief executive officer of the association must certify the report outlining the change.

[403.13, 403.14, 403.16]

Auditor's right of access to documents

The auditor must have access, at any reasonable time, to all of the association's documents. He or she may require the financial agent and electoral district agents of the association to provide any information or explanation that is necessary to enable the auditor to prepare the audit report.

[403.37(3)]

Responsibilities of the auditor

The auditor of a registered association that has, in a fiscal period, accepted contributions or incurred expenses of \$5,000 or more in total (less transfers to other political entities), must report to the association's financial agent on the financial transactions return of the association. The auditor must provide an audit opinion as to whether the *Registered Association Financial Transactions Return* (EC 20081) ⁴ presents fairly the information contained in the financial records on which it is based. [403.37(1)]

Auditor's fees

When an audit of the *Registered Association Financial Transactions Return* (EC 20081) ⁴ is required, the Act provides for a subsidy of a maximum of \$1,500 for the audit of the expenses. This amount is paid out of public funds directly to the auditor after the Chief Electoral Officer has received the return, the auditor's report, other documents required to accompany the return and a copy of the auditor's invoice. If the auditor's fees exceed the maximum allowable subsidy, the registered association is responsible for the difference. [403.39]

2.7 Obligations of registered associations

Registered associations must meet certain obligations to maintain their registered status. A registered association must:

- provide a statement in accordance with generally accepted accounting principles of its assets and liabilities, including any surplus or deficit, as of the day before the effective date of registration. The association must send the statement to the Chief Electoral Officer within six months after the effective date of registration. [403.05]
- file a statement with the Chief Electoral Officer, signed by the chief executive officer, confirming or amending the registered association's information filed with the Registry of Electoral District Associations on or before May 31 of every year. If an election campaign is in progress in the electoral district at that time, the date for filing is deferred to July 31. [403.17]
- notify the Chief Electoral Officer of any changes in the association's information filed with the Registry, including all appointments or changes in appointments for auditors, financial agents or electoral district agents, within 30 days of the change or appointments, and any necessary signed consent. [403.09]

- within five months after the end of each fiscal period, provide a financial transactions return, audited if required.
[403.35]
- when the association holds a nomination contest, provide a report to the Chief Electoral Officer within 30 days of the selection date: *Nomination Contest Report* (EC 20188) ✓
[478.02(1)]

3. Deregistration of associations

3.1 Deregistration

Registered associations can be deregistered in one of several ways. The association may ask to be deregistered, a party may deregister one of its associations, the association may be deregistered for failing to perform an obligation required under the Act, or it may be deregistered upon the deregistration or merger of the party with which it is associated.


If an association is deregistered for any reason other than the deregistration or merger of the party with which it is associated, the Chief Electoral Officer will inform the association of the deregistration, along with its effective date, which will be at least 15 days after the date of the notice. The Chief Electoral Officer will also send a copy of the notice of the association's deregistration to the leader of the association's affiliated political party and will publish a notice of deregistration in the *Canada Gazette*. A deregistered association must comply with specific requirements for deregistered associations. However, nothing prevents a deregistered association from applying again for registration.

[403.18, 403.21(3), 403.23, 403.24, 403.25]

A registered association can become deregistered either involuntarily or voluntarily.

Involuntary deregistration

The Chief Electoral Officer may deregister a registered association if it fails to provide:
[403.18, 403.19]

- by May 31 of each year, or July 31 if an election campaign is in progress, a statement confirming the validity of the information filed with the Registry of Electoral District Associations
- within 30 days, any documents referred to in subsection 403.16(1) or 403.16(2) concerning a change in the information filed with the Registry, including the replacement of its auditor or financial agent
- within 30 days of the appointment, a report concerning the appointment of an electoral district agent under subsection 403.09(2)
- within six months of the effective date of registration, any of the documents required upon application for registration referred to in section 403.05
- a report that is required to be filed for nomination contests under subsection 478.02(1), or
- within five months of the end of the fiscal year, the annual *Registered Association Financial Transactions Return* (EC 20081)  as described in subsection 403.35(1)

When the Chief Electoral Officer believes on reasonable grounds that a registered association or its financial agent has not fulfilled any of the major obligations referred to above, the Chief Electoral Officer will notify the association in writing (by a notice sent to the chief executive officer and the financial agent of the association) that it must, within a specified time, provide the requested information.

The association must then:

- rectify the omission by the discharge of those obligations within 30 days after it has received the notice, or
- satisfy the Chief Electoral Officer that the failure to fulfill its obligations was not the result of negligence or lack of good faith.

If an association fails to either meet any of these obligations or convince the Chief Electoral Officer that the infraction was not the result of any negligence or lack of good faith on its part within the period referred to in the notice, the Chief Electoral Officer may deregister the association.

[403.21]

Voluntary deregistration

At any time other than during an election period in the electoral district of the registered association, a registered association may voluntarily apply to become deregistered. The Chief Electoral Officer can accept the application only if it is signed by the chief executive officer and the financial agent of the association.

[403.2(1), 403.2(3)]

Deregistration by the political party

A registered political party may also deregister one of its registered associations at any time other than during an election period in the electoral district of that registered association. The party leader and any two party officers who are listed with the Registry of Political Parties must sign that application. If the application meets these requirements, the Chief Electoral Officer must deregister the association.

[403.2(2), 403.2(3)]

Effect of the *Electoral Boundaries Readjustment Act*

If the boundaries of an electoral district are revised as a result of a representation order under section 25 of the *Electoral Boundaries Readjustment Act*, a registered association for the electoral district may, before the day on which the representation order comes into force under subsection 25(1) of that Act, file with the Chief Electoral Officer a notice that it will continue as the registered association for a particular electoral district described in the representation order. The notice must be accompanied by a consent signed by the leader of the registered party with which the association is affiliated. Failure to do so will result in the deregistration of the registered association.

[403.22(1), 403.22(2), 403.22(3)]

An association that is deregistered because of a revision to its boundaries may transfer goods or funds to the registered party with which it is affiliated or to any of its registered associations in the six months after the day it is deregistered. Any such transfer is not a contribution for the purposes of the Act.
[403.22(3)]

As soon as a proclamation has been issued under section 25 of the *Electoral Boundaries Readjustment Act* relating to a representation order, an application may be made to pre-register an electoral district association for an electoral district that is created – or the boundaries of which are revised – by the order. The order must come into force before any resulting registration takes effect.
[403.22(4)]

Effect of the deregistration of a registered political party

If a registered party is deregistered, its registered associations are also deregistered, and the same rules and procedures must be followed.
[389.2]

Responsibilities after deregistration

After the effective date of deregistration, the registered association will no longer be able to accept contributions from, or to transfer funds, goods or services to, or receive transfers of funds, goods or services from candidates, other registered associations or the registered party. The financial agent still remains responsible under the Act for filing, within six months of becoming deregistered, the *Registered Association Financial Transactions Return* (EC 20081) [Ⓜ] and the auditor's report (if the total contributions or expenses were over \$5,000, excluding transfers to other entities) that apply to:
[403.26, 403.35(1)]

- the fiscal period in which the association became deregistered
- any other fiscal period for which the association has not filed a return

Option for deregistered associations

A formerly registered association that has been voluntarily or involuntarily deregistered can reapply to be a registered association by using the *Application for Registration of an Electoral District Association* (EC 20243) [Ⓜ]. The same procedures for registration apply in these instances as if the association were applying for the first time.

3.2 Mergers

Two or more registered parties may apply to the Chief Electoral Officer to merge into one at any time other than during the period beginning 30 days before the issue of a writ for an election and ending on election day.
[400]

Effective date of merger

The Chief Electoral Officer must be satisfied that the merged party is eligible for registration as a political party under the Act, that the merging parties have reported their financial transactions and their election expenses and that they have observed all other requirements of the Act and the application is not made within the prohibited time period. If the Chief Electoral Officer is satisfied that these conditions have been met, he or she must amend the Registry of Political Parties by replacing the names of the merging parties with the name of the merged party. If a by-election or general election is called during that period, the Chief Electoral Officer may not amend the Registry of Political Parties before election day.

[401, 402]

The Chief Electoral Officer will notify the merging parties in writing, and will publish a notice in the *Canada Gazette*, that the name of the merged party has replaced the names of the merging parties in the Registry of Political Parties. The effective date of the merger is the date the Chief Electoral Officer amends the Registry of Political Parties to add the registered party.

[401, 402]

Consequences of a merger on registered associations

The merger of two or more registered parties will affect their respective registered associations as follows:

[402(3)]

- the registered associations of the merged parties will become deregistered
- associations that become deregistered after two or more registered parties have merged may transfer their goods or funds to the merged party or the party's registered associations. These transfers are permitted only within six months immediately after the merger despite paragraph 403.01(c) of the Act.

4. Financial administration

4.1 Contributions

Definition

A contribution may be monetary or non-monetary.

Monetary contributions

A monetary contribution is an amount of money that is not repayable.

[2(1) "monetary contribution"]

Non-monetary contributions

A non-monetary contribution is the commercial value of a service, or of property, or the use of property or money to the extent that they are provided without charge or at less than their commercial value.

[2(1) "non-monetary contribution"]

Illegal contributions

It is illegal for anyone (including a company or other organization) to solicit or accept a contribution on behalf of a registered association if any part of the contribution would be transferred to a person or entity other than the registered party, a candidate, leadership contestant or electoral district association. It is also illegal for anyone to collude with someone else (including a company or other organization) to circumvent this prohibition. [405.21]

Eligible contributors

Only an individual who is a Canadian citizen, or a permanent resident as defined in subsection 2(1) of the *Immigration and Refugee Protection Act*, can make a contribution to a registered association.

[404(1)]

Subsection 2(1) of the *Immigration and Refugee Protection Act* defines a permanent resident as "a person who has acquired permanent resident status and has not subsequently lost that status under section 46." Section 46 itemizes categories of persons under the *Immigration and Refugee Protection Act* and the *Citizenship Act*. For details, consult those Acts.

A registered association must not receive an indirect contribution – one that comes from the money, property or services of another person or entity – if that other person or entity gave it to the contributor to make a contribution to the registered association.
[405.3]

For additional information on the prohibition on indirect contributions, please see Information Sheet 10: *Making Contributions Using Money, Property or Services Given to One by Others for that Purpose* ¹⁰.

Identification of contributors

The financial agent must report all contributions to the registered association in the *Registered Association Financial Transactions Return* (EC 20081) ¹¹.

The registered association's return must include the name and address of any contributor who made aggregated contributions to the registered association in excess of \$200, the amount of each contribution and the date on which the association received it.

[403.35(2)(c)]

Acceptance of a contribution

A monetary contribution is deemed to be accepted when it comes into the hands of the financial agent. A non-monetary contribution is deemed to be accepted when the financial agent authorizes the use of the property or service.

Cash contribution limit

It is prohibited for an individual to make a cash contribution that exceeds \$20.
[405.31]

Ticketed fundraising functions

A ticketed fundraising activity is a function – such as a dinner or cocktail party – held by selling tickets for the purpose of soliciting contributions for the registered association. The amount of the contribution is the difference between the price of the ticket and the fair market value of what the ticket entitles the purchaser to obtain.

[408]

The financial agent must issue a receipt for the contribution portion of the admission price. This amount is a contribution made by the contributor. For all single or aggregate contributions in excess of \$200, the financial agent must report the name and address of the contributor, as well as the amount and date of the contribution.

[2(1) "contribution", 408, 403.35(2)]

For example, if the financial agent organizes a dinner with a fair market value of \$45 per attendee and charges \$250 for admission to the function, the agent must issue a receipt for \$205 to each person purchasing a ticket. The financial agent must record in **part 2a** of the registered association's return the name, address, contributed amount of \$205 and date of contribution for each individual purchasing a ticket.

Fundraising activities during an election period

An electoral district association of a registered party must not incur expenses for election advertising during an election period.

Commercial value

Commercial value is defined as the lowest amount charged at the time that a property or service was provided for the same kind and quantity of property or service or for the same usage of property or money, by

- (a) the person who provided it, if the person is in the business of providing that property or service; or
- (b) another person who provides that property or service on a commercial basis in the area where it was provided, if the person who provided the property or service is not in that business.

[2(1) "commercial value"]

Contribution limits

Any individual who is a Canadian citizen or permanent resident of Canada may make these contributions:

- up to \$1,000 in total in any calendar year to a particular registered party
- up to \$1,000 in total in any calendar year to the registered associations, nomination contestants and candidates of a particular registered party
- up to \$1,000 in total to a candidate for a particular election who does not represent a registered political party
- up to \$1,000 in total to the contestants in a particular leadership contest [405(1)]

The Act provides for maximum contribution limits of \$1,000, subject to an inflation adjustment on April 1 of each year. On January 1, 2007, the contribution limits were adjusted by the April 1, 2006, inflation factor and therefore established at \$1,100. For more information on current contribution limits, go to www.elections.ca > Election Financing > General Information on Election Financing > Limit on Contributions as of January 1, 2007.

[405.1]

There is no limit to a contribution made in an individual's will as an unconditional, non-discretionary testamentary disposition.

[405(2)]

Responsibilities concerning contribution limits

The financial agent must not knowingly accept contributions that exceed the limits set forth in the Act. However, the financial agent is not personally responsible for verifying that contributors have not exceeded their total contribution limit for the year when accepting contributions from them.

[405.2(3)]

Issuing receipts


The financial agent and the electoral district agents can issue two types of receipts to acknowledge contributions to the registered association. It is mandatory to issue receipts for monetary or non-monetary contributions over \$20.

[404.4]

Official tax receipts

For eligible monetary contributions, the financial agent or the electoral district agent may issue an official tax receipt in the name of the contributor for tax credit purposes. If a contributor declines a receipt valid for income tax purposes, the financial agent must issue a receipt not valid for income tax purposes for any contribution over \$20.

[404.4, *Income Tax Act* subsection 127(3)]

For further information about issuing receipts valid for income tax purposes, see the information circular published by the Canada Revenue Agency, IC75-2R7 *Contributions to a Registered Party, a Registered Association or to a Candidate at a Federal Election* . The circular can be obtained on the Elections Canada Web site at www.elections.ca.

No official tax receipts

The *Income Tax Act* prohibits issuing receipts valid for income tax purposes for non-monetary contributions.

[*Income Tax Act*]

Tax credits for contributors

Subsection 127(3) of the *Income Tax Act* provides a tax credit for monetary contributions made by the taxpayer to a registered party, a provincial division of a registered party, a registered association or a candidate:

- 75% of the first \$400
- 50% of the next \$350
- 33 1/3% of the amount over \$750

Anonymous or ineligible contributions

Anonymous contributions

The following are anonymous contributions, whether monetary or non-monetary:
[403.36]

- contributions exceeding \$20 for which the financial agent does not have the name of the contributor
- contributions exceeding \$200 for which the financial agent does not have the name and address of the contributor

The financial agent must, without delay, pay the amount of any anonymous contribution – or in the case of an anonymous non-monetary contribution, an amount equal to its value – to the Chief Electoral Officer, who will forward the amount to the Receiver General for Canada.

[403.36]

Any anonymous contribution that was accepted by the financial agent must also be disclosed in **part 2c** of the *Registered Association Financial Transactions Return* (EC 20081) ¹⁶.

[403.35(2)(j)]

Anonymous contributions of \$20 or less may be solicited at a meeting through a "collection plate" or by "passing the hat." When this occurs, the financial agent must record the following:

- a description of the function at which the contributions were collected
- the date of the function
- the approximate number of people at the function
- the total amount accepted in anonymous contributions

However, the financial agent must take measure to ensure that he/she does not accept contributions from ineligible contributors.

To record this information, the financial agent may wish to use the *General Solicitation Contributions Record Keeping – Anonymous Contributions of \$20 or Less* (form EC 20154) ¹⁰, which can be obtained from the Elections Canada Web site at www.elections.ca.

The financial agent must enter the total of contributions received from such a collection under the category "Anonymous contributions from general solicitation at a meeting or fundraising event of \$20 or less" in **part 2a** of the *Registered Association Financial Transactions Return* (EC 20081) ¹⁰.
[403.35(2)]

If it is apparent that someone placed an amount exceeding \$20 in the collection, then the financial agent must treat that contribution as anonymous.

The financial agent must pay the amount of any anonymous contribution – or in the case of an anonymous non-monetary contribution, an amount equal to its commercial value – without delay to the Chief Electoral Officer, who will forward the amount to the Receiver General for Canada.
[403.36]

Ineligible contributions

The following are ineligible contributions, either monetary or non-monetary:
[404(1), 405(1), 405.1]

- contributions from individuals who are not Canadian citizens or permanent residents as defined in subsection 2(1) of the *Immigration and Refugee Protection Act*
- contributions from corporations
- contributions from trade unions or other associations
- contributions from unincorporated associations
- contributions that exceed the contribution limits set forth in the Act

Illegal contribution


No person or entity may solicit or accept a contribution on behalf of a registered association if the person or entity made a representation to the contributor or potential contributor that part or all of the contribution would be transferred to a person or entity other than the registered party, a candidate, leadership contestant or electoral district association. It is an offence to collude with a person or entity for the purpose of circumventing this prohibition.
[405.21]

Returning contributions to the contributor

If a registered association receives an ineligible contribution, within 30 days after becoming aware that it is ineligible, the financial agent must return the contribution unused to the contributor.

Remitting amounts to the Chief Electoral Officer

If it is not possible for the financial agent to return an ineligible contribution to the contributor, the financial agent must pay the amount of it – or in the case of a non-monetary contribution, an amount equal to its commercial value – to the Chief Electoral Officer, who will forward the amount to the Receiver General for Canada.
[404(2)]


All contributions received but returned must be disclosed by the financial agent in **part 2c** of the *Registered Association Financial Transactions Return* (EC 20081) 
[405.4(2)]

Deemed contributions

Unpaid claims

With some exceptions, if an unpaid claim remains wholly or partly unpaid on the day that is 18 months after the end of the fiscal period to which the claim relates, it is deemed to be a contribution to the registered association made on the day on which the expense was incurred. These deemed contributions are subject to the same eligibility requirements and contribution limits as any other contributions.
[403.34(1)]

4.2 Loans

The financial agent must disclose the full name and address of the lender, name of the guarantor, if applicable, the amount of the principal borrowed, the amount of interest or discount, the repayment schedule and any conditions on a loan in the *Registered Association Financial Transactions Return* (EC 20081) 
[403.35(2)(i), 403.35(2)(i.1), 403.35(3)]

If the interest rate charged on a loan is less than a commercial interest rate, the financial agent must record a non-monetary contribution from the lender equal to the foregone interest on the loan.

The loan must only be disclosed in **part 2e** of the return in the year in which the loan was obtained.

4.3 Transfers from registered parties, other registered associations, candidates, leadership contestants and nomination contestants of the same party

Registered associations are allowed to accept transfers of goods, services and funds from registered parties, other registered associations and candidates of the same party, once they have been officially endorsed by the party. Registered associations can also accept transfers of funds from leadership contestants and nomination contestants of the same party. The financial agent must include the amount and date of these transfers in **part 2d** of the *Registered Association Financial Transactions Return* (EC 20081) ~. [403.35(2)(h), 404.2(2)]

4.4 Registered association expenses

Registered associations must file annual financial statements with Elections Canada. These statements must be prepared in accordance with generally accepted accounting principles. This information must be included in part 4 of the *Registered Association Financial Transactions Return* (EC 20081) ~. [403.35(2)(e), 403.35(2)(f)]

Presentation of claims

A person with a claim to be paid for an expense of a registered association must send, within three months after incurring the expense, an invoice or other document supporting the claim to the registered association or one of its electoral district agents. [403.29(1)]

If a claimant dies before the end of the three-month period without having submitted the invoice or other documents supporting the claim, a new three-month period begins on the day on which the claimant's legal representative becomes entitled to act for the claimant. [403.29(3), 403.32]

A claimant can recover a claim that has been submitted after the three-month period only if he or she obtains the authorization of the Chief Electoral Officer to have the claim paid. [403.29(2), 403.31]

If the Chief Electoral Officer refuses the authorization, or its conditions cannot be met, the applicant may apply to a judge to authorize an electoral district agent to pay the claim. [403.32]

Deadline for payment of claims

The financial agent or an electoral district agent must pay within six months of its due date any claim for expenses that the claimant has submitted within three months after the association incurred the expense.

[403.3]

Unpaid claims

A claim that remains unpaid for more than six months after it should have been paid or for which an invoice was not sent within three months of the expense being incurred can be paid only if the Chief Electoral Officer authorizes an electoral district agent to pay the claim. If the Chief Electoral Officer refuses to authorize payment, or the conditions of authorization cannot be met, the claimant or the electoral district agent may apply to a judge to authorize the agent to pay the claim.

[403.31, 403.32]


Any claim that remains unpaid on the day that is 18 months after the end of the fiscal period to which the financial return relates is deemed to be a contribution to the registered association made on the day when the expense was incurred. It will also be subject to the contribution limits and the eligibility requirements specific to the contributor. Unpaid claims must be reported in the same manner as all other contributions and will be subject to the same rules. Exceptions to these requirements may be made if a claim:

- is the subject of a binding agreement to pay
- is the subject of a legal proceeding to secure its payment
- is the subject of a dispute as to the amount the association was liable to pay or the amount that remains unpaid, or
- has been written off by the creditor as an uncollectible debt in accordance with the creditor's normal accounting practices

If any of these apply to an unpaid claim, the financial agent must notify the Chief Electoral Officer before the 18-month period ends.

[403.34]

4.5 Transfers to the registered party, other registered associations of the party, candidates, leadership candidates and nomination contestants endorsed by the party

Registered associations may transfer goods, services or funds to their registered party and other registered associations of their party. Registered associations may also transfer goods, services or funds other than trust funds to candidates endorsed by their party. The commercial value of the goods and services transferred or the funds provided must be recorded in **part 3a** of the *Registered Association Financial Transactions Return* (EC 20081) .

[403.35(2)(g), 404.2(2)]

Registered associations may provide goods and services to leadership and nomination contestants if they are offered equally to all contestants. However, they cannot transfer funds to a leadership contestant or a nomination contestant.
[404.3(1)]

No financial agent of a registered association may transfer funds to a candidate after election day, except to pay claims related to the candidate's electoral campaign.
[476]

5. Reporting requirements

5.1 Reporting process

For each fiscal period of the registered association, the financial agent must provide the Chief Electoral Officer with:

[403.35(1)]

- a completed *Registered Association Financial Transactions Return* (EC 20081) ¹⁰, including a declaration by the association's financial agent that the return is complete and accurate
- an auditor's report on the financial transactions return, if one is required

5.2 Content of the *Registered Association Annual Financial Transactions Return*

The *Registered Association Financial Transactions Return* (EC 20081) ¹⁰ that the financial agent must send within five months after the end of the association's fiscal period to the Chief Electoral Officer includes four main parts.

Part 1 – Declaration

This part contains the declaration of the financial agent regarding the completeness and the accuracy of the return. It also lists the contact information for the financial agent and registered association.

[403.35(1)(c)]

It is important to note that the current financial agent must sign the declaration, **not** the financial agent who was the agent at the time of the transactions (if they are different).

Part 2a – Statement of contributions received – Details of contributions from individuals

This part lists all contributions received from individuals, including:

- for contributors who have given aggregated contributions of more than \$200, the date each contribution was received and the individual's name and address
- the total amount and number of all monetary and non-monetary contributions of \$200 or less
- the total amount and approximate number of anonymous monetary and non-monetary contributions of \$20 or less collected through general solicitation at a meeting or fundraising event

[403.35(2)(a), 403.35(2)(b), 403.35(2)(c)]

Part 2b – Statement of contributions received – Details of operating loans

This part lists the name and address of each lender, and the date, principal and interest rate of the loan. A repayment schedule and a statement of conditions must be attached for all loans.

[403.35(2)(i), 403.35(2)(i.1)]

Part 2c – Statement of contributions received – Contributions returned to donors or otherwise dealt with in accordance with the Act

This part lists the name and address of each contributor and the amount of the contribution or the commercial value of the property or service provided that was accepted by the financial agent and subsequently returned to the donor or remitted to the Chief Electoral Officer. The financial agent must also indicate the date on which the contribution was received and returned or remitted.

[403.35(2)(j)]

Part 2d – Statement of transfers received

This part provides details of monetary and non-monetary transfers from the association's registered party, other registered associations, candidates, leadership contestants and nomination contestants of the same party.

[403.35(2)(h)]

Part 2e – Summary of contributions, loans and transfers received

This part summarizes all contributions and transfers received (money, property, services and discounts).

[403.35(2)(a), 403.35(2)(b), 403.35(2)(h), 403.35(2)(i)]

Part 3a – Statement of transfers to registered party, another registered association, a candidate, a leadership contestant or a nomination contestant

This part provides details of monetary and non-monetary transfers made to the association's registered party, other registered associations and candidates of the same party, and non-monetary transfers to leadership contestants and nomination contestants of the same party.

[403.35(2)(g)]

Part 3b – Statement of unpaid claims

This part lists claims that remain unpaid, indicating the name of the supplier (on the day that is 18 months after the end of the fiscal period to which the claim relates, with some exceptions, an unpaid claim becomes a contribution of the supplier) and the amount of the claim. If the claim is a disputed claim, the financial agent must note the disputed amount next to the agreed amount.

[403.34(1), 403.35(2)(e)]

Part 4 – Association's financial statements

This part provides a prescribed form for submitting the registered association's financial statements.

[403.35(2)(e), 403.35(2)(f)]

5.3 Making corrections and reporting changes

It is possible that the financial agent may wish to make corrections, submit requests and report changes to the Chief Electoral Officer concerning the *Registered Association Financial Transactions Return* (EC 20081) ¹.

Corrections by the registered association

As soon as a registered association or the financial agent of the association becomes aware of the need for a correction, the association or the agent must apply to the Chief Electoral Officer to authorize the correction. The Chief Electoral Officer may authorize the correction of a *Registered Association Financial Transactions Return* (EC 20081) ¹, or any updated document provided since the original filing, if he or she is satisfied by the evidence submitted by the applicant that the reason for the need for correction was:

[403.41(1)(b), 403.41(3)]

- the absence, death, illness or misconduct of the financial agent or a predecessor
- the absence, death, illness or misconduct of a clerk or an officer of the financial agent, or a predecessor of one of them, or
- inadvertence or an honest mistake of fact

Corrections by the Chief Electoral Officer

The Chief Electoral Officer may correct a return or any updated document provided since the original filing if the correction does not materially affect its substance.

[403.4(1)]

For example, the reclassification of a contribution would be the type of correction that the Chief Electoral Officer could make to a *Registered Association Financial Transactions Return* (EC 20081) ¹. However, such a correction could not remedy an omission in the return. The financial agent would have to file an updated version of the return.

Corrections at the request of the Chief Electoral Officer

The Chief Electoral Officer may, in writing, request that a registered association correct the *Registered Association Financial Transactions Return* (EC 20081) [✓] within a specified period. The chief executive officer or the financial agent of a registered association may apply to a judge for an order relieving the association from complying with a request to correct the return. The application must be made either within a period specified by the Chief Electoral Officer for the correction or within two weeks after the expiration of that period. The Chief Electoral Officer must be notified of the application. [403.4(2), 403.42]

Registered association requesting authorization for an extension

The financial agent must submit the *Registered Association Financial Transactions Return* (EC 20081) [✓] and required accompanying documents within five months after the end of the fiscal period. If this is not possible, the financial agent – or the chief executive officer, if there is no financial agent – may apply to the Chief Electoral Officer for more time to submit the return, the auditor's report, if necessary, and the declaration. [403.41]

If the Chief Electoral Officer refuses to authorize an extension or the financial agent is unable to file the return within the extended period, the financial agent or the chief executive officer of the association, if the financial agent is absent or incapacitated, may apply to a judge to allow sending the return and declarations within an extended time. The application must be made within two weeks after the rejection or within two weeks after the expiration of the extended period, as the case may be. [403.42]

5.4 Auditor's report

The auditor of a registered association that has, in a fiscal period, either accepted contributions of \$5,000 or more in total, or incurred expenses of \$5,000 or more in total (less transfers to other entities), must report to the association's financial agent on the financial transactions return of the association. The auditor must make an examination in accordance with generally accepted auditing principles that will enable him or her to give an opinion in the report as to whether the return presents fairly the information contained in the financial records on which it is based. The auditor's report must be included with the financial transactions return. [403.37(1)]

The auditor's opinion must include a statement whenever:
[403.37(2)]

- the registered association's return does not present fairly the information contained in the financial records on which the return is based, or
- an examination of the association's records indicates that proper accounting records do not appear to have been kept

Auditor's right of access to documents

The auditor must have access at any reasonable time to all of the registered association's documents. He or she may require the electoral district agents and financial agent to provide any information or explanation that, in his or her opinion, is necessary to prepare the required financial reports.
[403.37(3)]

5.5 Confirmation of registration yearly

On or before May 31 of every year, unless there is an election campaign in that electoral district on that date, in which case the due date is July 31, a registered association must provide the Chief Electoral Officer with:
[403.17]

- a statement certified by its chief executive officer confirming the validity of the information concerning that association filed with the Registry of Electoral District Associations, or
- if there is a change in that information, the report made of the change

In addition, if any change is made in the information filed with the Registry of Electoral District Associations, the association shall report the change, in writing, to the Chief Electoral Officer within 30 days. The report must be certified by the chief executive officer of the association.
[403.16]

5.6 Nomination contest report

When a nomination contest is held by a registered association, the association holding the contest must submit a report to the Chief Electoral Officer within 30 days after the selection date. The report sets out:

- the name of the electoral district, the registered association and the registered party that the nomination contest concerns
- the date on which the nomination contest began and the selection date
- the name and address of each nomination contestant as of the selection date, and of his or her financial agent
- the name of the person selected in the nomination contest

The selection date is the date on which a nomination contest is decided.
[478.01, 478.02]

5.7 Initial statement of assets

Within six months after becoming a registered association, the association must provide the Chief Electoral Officer with a statement of its assets and liabilities prepared in accordance with generally accepted accounting principles, including any surplus or deficit, as of the day before the effective date of registration. The financial agent of the association must sign a declaration that the statement is complete and accurate.
[403.05]

5.8 Reporting requirements for deregistered associations

A deregistered association must, within six months after the day of its deregistration, provide the Chief Electoral Officer with the *Registered Association Financial Transactions Return* (EC 20081) for the portion of its current fiscal period ending on the day of its deregistration. The deregistered association is also responsible for providing the financial return for any earlier fiscal period for which the documents have not already been provided.
[403.26]

5.9 Reporting requirements when parties merge

On the merger of registered parties, any registered association of a merging party is deregistered and may transfer goods or funds to the merged party or a registered association of the merged party in the six months after the merger. Furthermore, the deregistered association must provide its financial reports to the Chief Electoral Officer as explained in section 5.8.
[402(3), 403.26]

Newly created associations arising out of the merging party may wish to register. If they do so, they must provide the Chief Electoral Officer with a statement of assets and liabilities within six months of their registration.
[403.05]

6. Compliance and enforcement

6.1 Commissioner of Canada Elections and Director of Public Prosecutions

The Commissioner of Canada Elections is appointed by the Chief Electoral Officer. Both the Commissioner and the Director of Public Prosecutions have responsibilities for ensuring compliance with and enforcement of the *Canada Elections Act*. The Commissioner assesses each case brought to his or her attention in light of the Act and the particular circumstances of the case.

If the Commissioner believes, on reasonable grounds, that an offence has been committed under the *Canada Elections Act*, he or she may refer the matter to the Director of Public Prosecutions, who will decide whether to initiate a prosecution. The prosecution of offences under the Act can only be undertaken with the prior written consent of the Director of Public Prosecutions. A prosecution for an offence under the Act must be instituted within five years after the day on which the Commissioner becomes aware of the facts giving rise to the prosecution, and not later than ten years after the day on which the offence was committed.

In addition to the power to refer matters for possible prosecution to the Director of Public Prosecutions, the Commissioner may also apply for injunctions and enter into compliance agreements to ensure compliance with the Act. In an effort to educate and to promote compliance with the Act, the Commissioner may issue a formal caution to a person who may have committed an offence under the Act. During an election period, the Commissioner may apply to a competent court for an injunction if the Commissioner has reasonable grounds to believe that a person has committed, is about to commit or is likely to commit an act or omission that is contrary to the Act. The court may order any person to refrain from committing any act that appears to the Court to be contrary to the law, or to perform any act that appears to the court to be required by the law.

The Commissioner may also enter into a compliance agreement with any person to ensure compliance with the Act. The Commissioner may enter into a compliance agreement if he or she believes on reasonable grounds that a person has committed, is about to commit or is likely to commit an act or omission that is contrary to the Act. A compliance agreement may contain any terms or conditions that the Commissioner considers necessary to ensure compliance with the Act.

Under section 521.1 of the Act, the Commissioner may apply to a court for an order to deregister a registered party if, after notice to the party, the Commissioner still has reasonable grounds to suspect that a registered party does not have as one of its fundamental purposes participating in public affairs by endorsing one or more of its members as candidates and supporting their election.

6.2 Offences and penalties

All of the offences and penalties for violations of the *Canada Elections Act* are found in Part 19 of the Act.

Penalties vary for convictions, depending on the offence, the procedure selected to prosecute and the seriousness of the offence. Many offences have penalties that can result in fines, imprisonment or both. Section 500 of the Act should be consulted with respect to the specific potential penalties for conviction for a particular offence.

[500]

The Act also enables a court to impose additional penalties once a person has been convicted, having regard to the nature of the offence and the circumstances surrounding its commission. A person may be liable, in addition to any other penalty, to:

[501]

- perform community service
- pay an amount to the Receiver General if the offence resulted in a financial benefit
- compensate any other person who has suffered damages as a result of the commission of the offence
- perform any obligation, the non-performance of which gave rise to the offence, or
- take any other reasonable measure that the court considers appropriate to ensure compliance with the Act

Certain offences, listed in section 502 of the Act, are known as "illegal" or "corrupt" practices. For persons convicted of illegal or corrupt practices, the Act provides further penalties. As well as any other penalty that may be imposed, a person found guilty of one of these offences loses the right to be a candidate in a federal election, to sit as a member in the House of Commons, and to hold any office to which the incumbent is appointed by the Crown or by Governor in Council – for five years in the case of an illegal practice, and for seven years in the case of corrupt practices.

[502]

Many of the obligations imposed by the Act on registered or deregistered parties may give rise to an offence if a party, its officers or agents violate the obligations. Penalties vary according to the nature of the offence and the circumstances surrounding its commission.

If a registered party, its chief agent, a registered agent or one of its officers has been convicted of an offence referred to in subsection 501(3), having regard to the nature of the offence and the circumstances surrounding its commission, and in addition to any other punishment that may be imposed under the Act, a court may:

- direct the Chief Electoral Officer to deregister the party
- if it directs the deregistration of the party, direct the chief agent or another person specified by the court to liquidate the party's assets
- if it directs the liquidation of the party's assets, direct the financial agent of each registered association or another person specified by the court to liquidate the registered association's assets

